

A GLOSSARY OF PLANNING TERMS FOR MASSACHUSETTS CITIES

Joel Russell, October 2009

This glossary of planning terms is intended to be used as a reference for the layperson in understanding zoning and related planning documents. It is a work-in-progress and subject to correction, addition, and revision as necessary.

“AS-OF-RIGHT,” “BY RIGHT,” OR “PERMITTED” USES: Uses allowed with only a building permit and/or zoning permit, or only requiring site plan review but not a special permit.

CLUSTER DEVELOPMENT/SUBDIVISION: Arranging the same number of units that would otherwise be allowed on a parcel on smaller lots on one or more portions of the parcel, leaving portions of the property with important open space value as protected open space (usually protected by conservation restrictions) Other variations of this basic concept are called open space residential development and conservation subdivision. (*See also: FLEXIBLE DEVELOPMENT*)

COMPREHENSIVE PLAN: A concept or vision for the future development and preservation of an area, town, village, county, or region, expressing community goals, identifying preferred locations for intensive development, public improvements, and open space protection, describing necessary investments in infrastructure and community facilities, and providing recommendations for implementation. While a comprehensive plan does not have the force of law, zoning ordinances and other municipal regulations are supposed to be consistent with it. (Also known as a Master Plan.)

CONSERVATION RESTRICTION: A perpetual restriction on the use or development of land to protect important scenic, ecological, historic, or water resource values, enforced by the Town or by a non-profit land trust. A conservation restriction does not affect ownership of the land. It may be granted voluntarily by a landowner, purchased from a landowner, or required as a condition of a development approval to protect identified environmental or other resources. *Variations on this are called watershed protection restrictions, historic preservation restrictions, and agricultural preservation restrictions (APRs).*

DENSITY: The number of houses, dwelling units, or square feet of building allowed per acre of land. This is not the same as *minimum lot size* which determines the size of each lot. Zoning conventionally treats density and lot size as the same, but clustering and other techniques separate these concepts.

DESIGN CHARRETTE: A continuous three- to six-day planning and design process in which a team of design professionals such as architects, landscape architects, planners, and engineers work intensively with local community residents to design a development plan for a specific area. The outcome of a design charrette is usually a specific physical plan or plan options, sometimes accompanied by zoning changes required to implement the plan. (*See also: PLANNING CHARRETTE*)

DESIGN GUIDELINES: Illustrated guide showing what the community wants in terms of street design, building layouts, location of parking lots, landscaping, and sometimes architectural characteristics. These are usually advisory. They may be used to illustrate pictorially the standards contained in zoning, site planning or subdivision requirements. When mandatory, guidelines are generally referred to as “standards.” (*See “FORM-BASED CODE.”*)

DOWNZONING: Reducing the permitted density (or increasing the minimum lot size) for development within a zoning district, or rezoning from more to less intensive use (sometimes called “upzoning.”)

FLEXIBLE DEVELOPMENT/SUBDIVISION: Similar to clustering, except that the parcel can be divided into a combination of large and small parcels, with all or most of the protected open space in privately owned large lots (protected by conservation restrictions). Other variations of the same concept are called open space residential development and conservation subdivision.

FORM-BASED CODE: A method of regulating development to achieve a specific urban form. Form-based codes shape the public realm primarily by controlling physical form, with a lesser focus on land use. Form-based codes address the relationship between building facades and streets, sidewalks, parks, and other public spaces, regulating the form and mass of buildings in relation to one another and the spaces they shape, as well as the scale and types of streets and blocks. A form-based code combines elements typically found in zoning, subdivision regulations, and public works standards. The regulations and standards in form-based codes, presented in both diagrams and words, are keyed to a *regulating plan* that designates the appropriate form and scale (and therefore, character) of development at the scale of the street and block. This is in contrast to the usual focus in zoning on the precise definition and segregation of land uses in larger zoning districts, and the control of development intensity through abstract numerical parameters (e.g., lot size, frontage, lot area per dwelling unit, setbacks, parking ratios) that do not create a coherent built form. A form-based code is based upon a place-based design process rather than pre-conceived use and dimensional regulations. (see www.formbasedcodes.org/definition.html)

IMPACT FEE: Fee charged to a development to cover the public capital improvement costs created by that development. Such fees are generally not permitted without special state legislation authorizing their imposition (which Massachusetts does not have). They must be directly related to the impacts and roughly proportional to the specific costs imposed by the development or activity.

INCENTIVE ZONING: Allowing a developer to have additional density, flexibility, or expedited approval in return for a public amenity such as dedicated parkland, additional water or sewer capacity, affordable housing, or land for public buildings.

INFRASTRUCTURE: Public water and sewer service, road construction or improvement, mass transit, pedestrian and bicycle paths, electric, gas, and communications utilities, and other public improvements that are needed to support intensive development of land. The term "infrastructure" is sometimes used more broadly to mean all of the services that are necessary to serve development, such as parks, schools, police, firefighting, libraries, and other municipal services. Even more than zoning, the location of public infrastructure determines where growth will occur. In areas served by infrastructure, land use regulations are especially important to assure that growth benefits the community. Large-scale commercial, office, and industrial uses normally need direct access to major roads and usually require public water and sewer.

MEDIATION: A process in which someone who wants to develop land meets informally with neighbors and other concerned citizens to work out a compromise development plan with the help of a neutral third party. This plan is then presented to the appropriate board for formal review and approval. Mediation can avoid lengthy adversarial proceedings and the litigation that often ensues. Mediation can be included in a zoning bylaw as a dispute resolution option available to the parties.

MIXED-USE DEVELOPMENT: Development that combines different land uses in the same immediate neighborhood. The most vibrant parts of a city are those areas where people live, work, play, and shop in close proximity. Such walkable areas reduce dependence on cars, create more frequent and friendly pedestrian interactions and provide more security than single-use districts, since people are on the street at different times. This term is sometimes misapplied to large automobile-oriented developments which are divided into single-use areas but do not provide a pedestrian experience or a true mixing of uses.

NONCONFORMING USE: A use that was allowed prior to the adoption of a zoning bylaw or amendment, but which is no longer permitted. Non-conforming uses are usually allowed to continue. Their ability to expand or convert to other uses is defined and limited by zoning.

OVERLAY DISTRICTS: Areas identified as having important environmental, historic, scenic, water resource, or other sensitivity or value. Specific regulations for these areas are designed to assure that development within them does not compromise their special value. An overlay district is usually not a "no development" zone, but rather an area that requires "special handling." The underlying zoning rules still apply, except where they are modified by the protective overlay regulations. Overlay districts typically

overlap (“overlay”) different zoning districts.

PLANNED UNIT DEVELOPMENT (PUD): A customized zoning district or category created for a specific parcel, exempting that parcel from zoning rules in order to allow mixed uses and/or higher density.

PLANNING BOARD: The board charged with reviewing and approving subdivisions of land, site plans, and most special permits. The Planning Board also reviews and makes recommendations on proposed zoning amendments and adopts the City’s Comprehensive (Master) Plan.

PLANNING CHARRETTE: A continuous multi-day public meeting process in which a community develops a common vision for its future, sets goals for future development and for preservation of community character, and identifies specific steps to be taken to implement the goals. People work together in small and large groups to overcome factional division and develop greater mutual understanding. A planning charrette may be used to establish the basic ingredients of its Comprehensive Plan, as well as key implementation steps such as zoning revisions. (*See also: DESIGN CHARRETTE*)

PUBLIC (CAPITAL) IMPROVEMENT PLAN: A planned series of public actions that improve the attractiveness and economic viability of a community center or an entire municipality. These may include improvements to infrastructure and public buildings, improving or creating parks and other public open spaces, adding benches, chairs, and tables to sidewalk areas, improving the condition and quality of building facades and signs, fixing up neglected buildings for private or public use, adding parking in appropriate locations while maintaining a pedestrian orientation, and adding flowers, attractive lamp posts, or other aesthetic improvements.

PURCHASE OF DEVELOPMENT RIGHTS: A program in which a public (or non-profit) entity purchases conservation restrictions, agricultural preservation restrictions, or watershed protection restrictions from landowners in order to preserve undeveloped land.

SITE PLAN REVIEW: Case-by-case review, usually by the Planning Board, of proposed uses to assure that they fit appropriately onto their site, according to specific criteria such as traffic, road access, drainage, parking, landscaping, screening, building layout, architecture, etc. Any permitted use that meets site planning criteria must be approved (with appropriate conditions to assure that the criteria are satisfied). Site plan review generally does not apply to one and two-family housing or farms. Site plan approval may be granted by a majority vote. Site plan review can also be conducted by staff or another municipal board.

SPECIAL PERMIT USES: Uses that are allowed only if they satisfy specific criteria relating to their environmental impact and compatibility with the surrounding area. (Site planning criteria or separate site plan review is also usually required.) Special permits can be granted only by a two-thirds majority vote of the Planning Board, Zoning Board of Appeals, or City Council (unanimous for a three-member board). Special Permits allow flexible case-by-case review to determine whether particular proposed uses are appropriate on a given site. They enable the Board to take account of the unique circumstances of each tract of land and each proposed use. The criteria used to determine acceptability are important, and can be tailored to the specific needs of each community, use, or district.

SUBDIVISION REGULATIONS: Regulations issued by the Planning Board that establish procedures and standards for subdividing land. Subdivision approval is required before a final “definitive plan” map can be filed in the Registry of Deeds. Subdivision review usually focuses on road layout and design, lot configuration (including clustering), and compliance with zoning and health regulations. In Massachusetts, lots fronting on existing roads are exempt from subdivision review if they have the minimum frontage required by zoning (referred to as “approval not required” or “ANR”).

TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND): Development in the pattern of a traditional village or downtown, with small lots, public squares, sidewalks, pedestrian orientation, narrow interconnected streets, mixed uses (including retail, office, residential and workshop space), and often, traditional architecture. This type of development is forbidden by modern zoning codes in most places.

(Sometimes called "neo-traditional development" or "new urbanism." See "*FORM-BASED CODE*")

TRANSFER OF DEVELOPMENT RIGHTS: Similar to clustering, except that instead of transferring units from one portion of a parcel to another, units may be transferred to another parcel elsewhere in the community that is suitable for more intensive development. There are a variety of types of TDR, including voluntary and mandatory systems and those with and without designated "sending" and "receiving" zones. Transfer of development rights systems work best when coupled with purchase of development rights (PDR). (See *PURCHASE OF DEVELOPMENT RIGHTS*)

VARIANCE: A form of relief from zoning requirements in where the literal enforcement of the zoning would create substantial hardship. The Zoning Board of Appeals (ZBA) may grant a variance under very rare extenuating circumstances relating to soil conditions, shape, or topography of that are unique to a specific property. Variances are often confused with special permits and rezonings. Special permits are much easier to justify than variances, since they are based on planning and impact criteria and allow more discretion to the reviewing board. Variances require a two-thirds vote of the ZBA.

VESTED RIGHT: A landowner's right to develop land according to the rules in effect at the time of an application, based upon timely filing of an application or receipt of an approval from a municipal board. Massachusetts is unusual in allowing rights to vest even before approvals are granted, even if land use laws change. (This concept is often called a "zoning freeze" because it "freezes" the zoning for a specific parcel at a given point in time, even though the zoning of the surrounding area changes.) Early vesting of rights protects landowners but makes it difficult to implement comprehensive plans because it encourages landowners to file applications that vest rights before new zoning can become effective.

ZONING: A local ordinance (in a City) or bylaw (in a Town) containing rules and procedures regulating land uses and the approval of development. Zoning does not control building construction (which is regulated by the State Building Code). Conventionally, zoning divides a municipality into separate districts, prescribing minimum lot sizes, permitted uses, and required setbacks. A zoning ordinance may incorporate many of the other tools listed in this glossary, such as site plan review, special permits, overlay zones, planned unit development, traditional neighborhood development, transfer of development rights, and clustering. Zoning bylaws (and amendments) require a two-thirds majority vote by the City Council.

ZONING ADMINISTRATOR: In Northampton, an official appointed by the Zoning Board of Appeals to whom specific duties of the ZBA are delegated. In some cities, the official who administers the zoning code and issues zoning permits is also called a "zoning administrator."

ZONING BOARD OF APPEALS: The board responsible for hearing appeals, variances, and specified special permits, and for making findings regarding expansion of nonconforming uses or structures.

ZONING PERMIT: A permit issued by the Building Commissioner to allow construction of a building or use of a property.